

REMARKS

Claims 1-6, 9-14, 16-21, 23-28, 30-37, 40-47, and 49-62 were presented for examination in the present application. In the interest of expediting prosecution, claims 1-15, 21-26, 29, and 31-62 have been cancelled without prejudice. Additionally, the instant amendment adds new claims 63-66 to point out various aspects of the present application. Thus, claims 16-20, 27-28, 30, and 63-67 are pending for examination upon entry of the instant amendment.

Claim 14 was rejected under 35 U.S.C. §112, second paragraph. Claim 14 has been cancelled, rendering this rejection moot. Therefore, reconsideration and withdrawal are respectfully requested.

Claims 1-6, 9-14, 16-21, 23-28, 30-37, and 40-47 were rejected under 35 U.S.C. §103 over any one of Giannini, Waldron, Jelaso, or Suzuki in view of Brunelle.

Applicants respectfully submit that the amendments to the claims also renders these rejections moot.

Claims 1-6 and 9-14 have been cancelled. Therefore, reconsideration and withdrawal of the rejections to these claims are respectfully requested.

Independent claim 16 has been clarified to now recite that the integrated circuit chip controls "said amplifier to emit said sound for only a predetermined period of time after said integrated circuit chip detects that said spring cylinder contacted said sensor (emphasis added)".

The Office Action acknowledges that Giannini, Waldron, Jelaso, and Suzuki each fail to disclose or suggest a switch activated by motion. Rather, the Office Action asserts that Brunelle discloses a motion activated switch.

Applicants submit that Brunelle has a mercury switch 31, a power means 32, an alert means 33, and an activation switch 34. As best seen in FIG. 3, the mercury switch 31, power means 32, alert means 33, and activation switch 34 are all connected to one another in series. Thus, when switch 34 is on and the wearer of the device moves to a point where mercury switch 31 completes the circuit, power from power means 32 is provided to alert means 33 so that a sound is emitted. As soon as the user moves back to a point where the mercury switch 31 no longer completes the circuit, the sound from alert means 33 immediately stops.

In contrast, independent claim 16 now recites that the integrated circuit chip controls the amplifier to emit the sound for only a predetermined period of time after the integrated circuit chip detects that the spring cylinder contacted the sensor.

The circuit of Brunelle simply can not limit the length of time the alert means 33 sounds once the mercury switch completes the circuit. In Brunelle, the circuit is completed for the exact same length of time as the sounding of the alert means. However, independent claim 16 now recites that the integrated circuit chip controls the amplifier to emit the sound for only a predetermined period of time after the integrated circuit chip detects that the spring cylinder contacted the sensor.

The purpose of the Brunelle device is to alert the user when they are in a position that is harmful, for example, for their back. Applicants submit that it would be contrary to this basic premise of Brunelle to modify its circuit to sound for only a predetermined period of time after the integrated circuit chip detects that the spring cylinder contacted the sensor as required by clarified claim 16.

Accordingly, claim 16 is not disclosed or suggested by the proposed combination of cited art. Claim 16, as well as claims 17-20, 27-28, and 30 that depend therefrom, are therefore in condition for allowance. Reconsideration and withdrawal of the rejections to claims 16-20, 27-28, and 30 are requested.

In addition to the above, the Office Action asserts that it is well known in the prior art that spring switches are used to activate sound and/or light in apparel. In accordance with 37 C.F.R. § 1.104 (d)(2) and to preserve Applicants' argument on appeal, Applicants respectfully traverse this assertion. On this basis, Applicants request that the Examiner provide a reference to support the Examiner's position, and should the Examiner fail to supply such a reference, Applicants request withdrawal of the rejection based on the facts noted as being well known.

Claims 63-67 have been added to point out various aspects of the present application. It is submitted that new claims 63-67 are directed to the elected embodiment of Species I. Support for new claims 63-67 can be found in the specification at least at page 14, line 4 through page 15, line 15.

It is believed that new claims 63-67 are in a condition for allowance. For example, independent claim 63 recites a sound generating member having a spring cylinder and an integrated circuit chip. The integrated circuit chip is in electrical communication with a first actuator switch and a sensor. The spring cylinder is configured to contact the sensor in response to movement of the sound generating member. The integrated circuit chip is configured to control the sound generating member to emit the sound for only a predetermined period of time if the first actuator switch is in an activated position and the integrated circuit chip detects that the spring cylinder contacted the sensor.

As discussed in detail above, the circuit of Brunelle simply can not limit the length of time the alert means 33 sounds once the mercury switch completes the circuit. Rather, in Brunelle, the circuit is completed for the exact same length of time as the sounding of the alert means. Further, the purpose of the Brunelle device is to alert the user when they are in a position that is harmful, for example, for their back. Applicants submit that it would be contrary to this basic premise of Brunelle to modify its circuit to sound for only a predetermined period of time after the integrated

circuit chip detects that the spring cylinder contacted the sensor as required by claim 63.

Accordingly, Applicants submit that claim 63, as well as claims 64-67 that depend therefrom, are in condition for allowance over the cited art and any combinations thereof

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted,

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